

## REMARKS

Claims 1 to 23 are currently pending in this application. In response to the Restriction Requirement, Applicant hereby provisionally elects Group I, claims 1 to 22, without prejudice to pursue the non-elected claims at a future date in this or in another application. Additionally, the Applicant requests that the Examiner consider rejoinder of non-elected claims as appropriate should allowable subject matter be found among the elected claims. However, Applicant respectfully traverses the Restriction Requirement.

Under United States patent law, the Examiner must establish that the inventions are independent and distinct for proper restriction. See 35 U.S.C. §121; 37 C.F.R. §§ 1.141.-1.142; and MPEP §§ 802-803. For the inventions to be independent, there must be no disclosed relationship between the two or more subject matters disclosed, that is, “they are unconnected in design, operation or effect.” MPEP §802.01. The Examiner alleges that inventions I and II are related as combination and subcombination. The Examiner alleges that the subcombination has separate utility, such as a hand-held glucose analyzer. Applicant respectfully submits that there is no evidence for the separate utility alleged by the Examiner and that both the combination and subcombination appear to be usable as a handheld glucose analyzer.

Additionally, Applicant respectfully traverses the Restriction Requirement because under MPEP §803, if the search and examination of an entire application can be made without serious burden, then the Examiner must examine it on the merits, even though it includes claims to independent or distinct inventions. In other words, even if the Examiner had successfully shown that the claimed inventions are distinct, the Examiner must also demonstrate that there would be a serious burden to search and examine all of the pending claims without a restriction. Although the Examiner has asserted different classifications for inventions I and II, different classifications are not dispositive as to whether there is a serious burden on the Examiner.

Applicant notes that both Groups I and II are classified in class 422 and are further classified in adjacent subclasses 99 and 100. Applicant further notes that claim 2 of Group I comprises a multiport valve as does claim 23 of Group II, and to the extent that the Examiner

examines all of claims 1 to 22, the search should substantially overlap the examination of claim 23. Therefore, Applicant respectfully submits that the examination of both Group I and Group II would not pose a serious burden on the Examiner.

Accordingly, Applicant respectfully requests that the Restriction Requirement be withdrawn.

### CONCLUSION

If any additional information should be required in considering this Response, or if there are any issues that can be resolved by telephone with the Applicant's representative, then the Examiner is encouraged to contact the undersigned directly.

No fees are believed due in connection with this communication. However, the Commissioner is hereby authorized to charge payment of any fees due with this communication to Deposit Account No. 19-2090.

Respectfully Submitted,  
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